

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 1/22/2020

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FRANCISCO ALVARADO,  
ON BEHALF OF HIMSELF, FLSA  
COLLECTIVE PLAINTIFFS AND THE  
CLASS,

Plaintiff,

-against-

VILLAS MARKET PLACE INC. D/B/A  
GARDEN GOURMET MARKET,  
AND ANDREAS ZOITAS,

Defendants.  
-----X

19-CV-4036 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

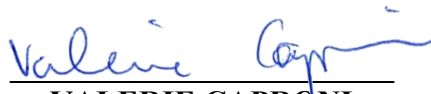
WHEREAS on January 8, 2020, the Court conditionally certified a collective in this case,  
*see* Dkt. 42; and

WHEREAS on January 17, 2020, the parties submitted a revised proposed notice of  
pendency, *see* Dkt. 43;

IT IS HEREBY ORDERED that the Court will not approve the parties' proposed notice  
at this time. The parties must submit a revised notice containing the revisions attached hereto. If  
the parties do so, the Court will consider approving their proposed notice. A revised notice must  
be submitted not later than **January 30, 2020**.

**SO ORDERED.**

**Date: January 22, 2020**  
**New York, New York**

  
\_\_\_\_\_  
**VALERIE CAPRONI**  
**United States District Judge**

# EXHIBIT A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FRANCISCO ALVARADO,  
*on behalf of himself, FLSA Collective Plaintiffs  
and the Class,*

**Plaintiff,**

**Case No. 19-cv-04036**

v.

VILLAS MARKET PLACE INC.  
d/b/a GARDEN GOURMET MARKET,  
and ANDREAS ZOITAS,

**Defendants.**

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**NOTICE OF PENDENCY OF  
LAWSUIT REGARDING WAGES**

**Please read this notice if you are or were employed as a Porter, Cook, or Stock Clerk by VILLAS MARKET PLACE INC d/b/a GARDEN GOURMET MARKETPLACE at any time between May 6, 2016 and the present**

Former employee FRANCISCO ALVARADO ("Plaintiff") has filed this lawsuit against VILLAS MARKET PLACE INC. d/b/a GARDEN GOURMET MARKET and ANDREAS ZOITAS ("Defendants") under the Fair Labor Standards Act ("FLSA").

Plaintiff seeks (i) unpaid wages (ii) overtime premium at the rate of one and one half times the regular rate for work in excess of forty (40) hours per workweek; and (iii) compensation for all regular and overtime hours worked but not paid due to a policy of time shaving.

Defendants ~~vigorously deny any wrongdoing and/or liability and deny that any employee was underpaid for his or her work at any time~~ that Plaintiff's claims have merit.

The purpose of this Notice is to advise you of the existence of these FLSA claims and of certain rights you may have with respect to the FLSA claims. No determination has been made that you are owed any wages, and the Court is not endorsing the merits of this lawsuit or advising you to participate in this lawsuit. The Court has not decided the merits of any claims or whether either party is right or wrong. You are under no obligation to respond to this notice.

**YOUR LEGAL RIGHTS**

If you worked for Defendants as a Porter, Cook, or Stock Clerk at any time between May 6, 2016 and the present, you may join this lawsuit. If you believe that you may be able to assert any of the claims described above, you have the right to participate in this lawsuit. The right to participate may be subject to a court decision that you are similarly situated to the Plaintiff. It is your right to join or not to join this lawsuit. If you decide to join this lawsuit, it is illegal for Defendants to retaliate, discharge, take any adverse action, or discriminate against you in any way for participating in this lawsuit.

If you decide to participate ~~in this lawsuit's FLSA claim~~, you will be required to provide information, documents, and answer questions. You may also be required to testify at a deposition

and, potentially, testify~~ing~~ at a trial ~~in this matter~~. You will also be bound by the outcome of this lawsuit's FLSA claims, whether it is favorable or unfavorable to ~~you~~the plaintiffs. ~~The plaintiffs may obtain nothing by virtue of the lawsuit.~~

To join this lawsuit, you must sign a "Consent to Sue" form, which is enclosed with this Notice, and send it on or before **[2 months from the date notice is sent out]** to:

C. K. Lee, Esq.  
Lee Litigation Group, PLLC  
148 West 24th Street, 8th Floor  
New York, NY 10011  
Tel: (212) 465-1180  
Fax: (212) 465-1181  
Email: [cklee@leelitigation.com](mailto:cklee@leelitigation.com)

If you choose not to join this lawsuit, you will not be entitled to share in any amounts recovered ~~by the Plaintiffs if they are successful in obtaining an award~~ from a trial or settlement of this lawsuit. You will also not be affected bound by any ruling, judgment, or settlement rendered in this lawsuit. You should also be aware that your ~~federal wage and hour~~FLSA claims are limited by ~~either~~ a two or three year statute of limitations from the date of the violation.

### THE LAWYERS REPRESENTING PLAINTIFF

If you join this lawsuit and agree to be represented by Plaintiff through his attorneys, you will be represented by Lee Litigation Group, PLLC. The firm is handling the lawsuit on a "contingency fee" basis, which means that the firm will only be paid if this case is settled successfully or if Plaintiff prevails at trial. ~~Y~~You will~~de~~ not have to pay out-of-pocket any attorneys' fees or expenses to participate in~~for~~ this lawsuit. ~~If the~~ Plaintiff wins a favorable judgment or successfully settles this lawsuit, Lee Litigation Group, PLLC may ask the Court to award it its reasonable lodestar or attorneys' fees in an amount up to one-third of the monetary recovery, whichever is greater. Alternatively, Lee Litigation Group, PLLC may ask the Court to award it attorneys' fees equal to the number of hours its attorneys have spent on the litigation times the attorneys' normal billing rate. ~~However, the~~Any decision ~~whether~~ to award such a fee, and how much shall be awarded, will be at the sole discretion of the Court.

If you decide to join this lawsuit, Y~~you~~ are not required to be represented by ~~have~~ Lee Litigation Group, PLLC ~~represent you~~. If you want your own attorney to represent you in this lawsuit, you may do so, but subject to whatever fee arrangements you make with that attorney. If you chose to participate in the lawsuit and to be represented by separate counsel, if the case is successful your attorney may make a request to the Court for attorney's fees, would have to be made for that attorney's fees and expenses, and the arrangements could be the same as Lee Litigation Group, PLLC.

### GETTING MORE INFORMATION

You can obtain more information about this lawsuit by contacting C.K. Lee, Esq.:

C. K. Lee, Esq.  
Lee Litigation Group, PLLC  
148 West 24th Street, 8th Floor  
New York, NY 10011  
Tel: (212) 465-1180  
Fax: (212) 465-1181  
Email: [cklee@leelitigation.com](mailto:cklee@leelitigation.com)

**Do not call or write the Court or the Clerk's Office with questions.**

Dated: Bronx, New York, \_\_\_\_\_

**"CONSENT TO SUE" FORM**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----  
FRANCISCO ALVARADO,  
*on behalf of himself, FLSA Collective Plaintiffs  
and the Class,*

**Plaintiff,**

v.

**Case No. 19-cv-04036**

VILLAS MARKET PLACE INC.  
d/b/a GARDEN GOURMET MARKET,  
and ANDREAS ZOITAS,

**Defendants.**  
-----

**If you are or were employed as a Porter, Cook, or Stock Clerk by VILLAS MARKET PLACE INC d/b/a GARDEN GOURMET MARKETPLACE located at 5665 Broadway, Bronx, New York 10463, at any time between May 6, 2016 and the present, complete and mail this Consent Form by [2 months from the date notice is sent out] to:**

C. K. Lee, Esq.  
Lee Litigation Group, PLLC  
148 West 24th Street, 8th Floor  
New York, NY 10011  
Tel: (212) 465-1180  
Fax: (212) 465-1181

**I hereby consent to join this lawsuit as a party plaintiff. ~~By signing and returning this consent form, I hereby designate Plaintiff or his counsel Lee Litigation Group, PLLC to represent me and make decisions on my behalf concerning the litigation and any settlement. (If you wish to join the lawsuit but have selected your own attorney, please complete the information~~**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Social Security No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

[You must also complete the information on the next page]

~~By signing and returning this consent form, I hereby designate Plaintiff or~~ **and** ~~his counsel~~  
**Lee Litigation Group, PLLC to represent me and make decisions on my behalf concerning**  
**the litigation and any settlement.**

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

**I wish to join the lawsuit, but I have selected**  
**(enter name and telephone number of your attorney) to represent me.**

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

# EXHIBIT B



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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FRANCISCO ALVARADO,  
*on behalf of himself, FLSA Collective Plaintiffs  
and the Class,*

**Plaintiff,**

v.

VILLAS MARKET PLACE INC.  
d/b/a GARDEN GOURMET MARKET,  
and ANDREAS ZOITAS,

**Defendants.**

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**Case No. 19-cv-04036**

**NOTICE OF PENDENCY OF  
LAWSUIT REGARDING WAGES**

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Plaintiff seeks (i) unpaid wages (ii) overtime premium at the rate of one and one half times the regular rate for work in excess of forty (40) hours per workweek; and (iii) compensation for all regular and overtime hours worked but not paid due to a policy of time shaving. Defendants deny that Plaintiff's claims have merit.

The purpose of this Notice is to advise you of the existence of these FLSA claims and of certain rights you may have with respect to the FLSA claims. The Court has not decided the merits of any claims or whether either party is right or wrong. You are under no obligation to respond to this notice.

**YOUR LEGAL RIGHTS**

If you worked for Defendants as a Porter, Cook, or Stock Clerk at any time between May 6, 2016 and the present, you may join this lawsuit. If you believe that you may be able to assert any of the claims described above, you have the right to participate in this lawsuit. The right to participate may be subject to a court decision that you are similarly situated to the Plaintiff. It is your right to join or not to join this lawsuit. If you decide to join this lawsuit, it is illegal for Defendants to retaliate, discharge, take any adverse action, or discriminate against you in any way for participating in this lawsuit.

If you decide to participate, you will be required to provide information, documents, and answer questions. You may also be required to testify at a deposition and, potentially, testify at a trial. You will also be bound by the outcome of this lawsuit's FLSA claims, whether it is favorable or unfavorable to you.

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Lee Litigation Group, PLLC  
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If you choose not to join this lawsuit, you will not be entitled to share in any amounts recovered from a trial or settlement of this lawsuit. You will also not be bound by any ruling, judgment, or settlement rendered in this lawsuit. You should also be aware that your FLSA claims are limited by a two or three year statute of limitations from the date of the violation.

### **THE LAWYERS REPRESENTING PLAINTIFF**

If you join this lawsuit and agree to be represented by Plaintiff through his attorneys, you will be represented by Lee Litigation Group, PLLC. The firm is handling the lawsuit on a “contingency fee” basis, which means that the firm will only be paid if this case is settled successfully or if Plaintiff prevails at trial. You will not have to pay out-of-pocket any attorneys’ fees or expenses to participate in this lawsuit. If Plaintiff wins a favorable judgment or successfully settles this lawsuit, Lee Litigation Group, PLLC may ask the Court to award it attorneys’ fees in an amount up to one-third of the monetary recovery. Alternatively, Lee Litigation Group, PLLC may ask the Court to award it attorneys’ fees equal to the number of hours its attorneys have spent on the litigation times the attorneys’ normal billing rate. Any decision to award such a fee, and how much shall be awarded, will be at the sole discretion of the Court.

If you decide to join this lawsuit, you are not required to be represented by Lee Litigation Group, PLLC. If you want your own attorney to represent you in this lawsuit, you may do so, but subject to whatever fee arrangement you make with that attorney. If you chose to participate in the lawsuit and to be represented by separate counsel, if the case is successful your attorney may make a request to the Court for attorneys’ fees.

### **GETTING MORE INFORMATION**

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Dated: Bronx, New York, \_\_\_\_\_

**"CONSENT TO SUE" FORM**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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FRANCISCO ALVARADO,  
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148 West 24th Street, 8th Floor  
New York, NY 10011  
Tel: (212) 465-1180  
Fax: (212) 465-1181

**I hereby consent to join this lawsuit as a party plaintiff.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Social Security No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

[You must also complete the information on the next page]

**I hereby designate Plaintiff and his counsel Lee Litigation Group, PLLC to represent me and make decisions on my behalf concerning the litigation and any settlement.**

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

**I wish to join the lawsuit, but I have selected \_\_\_\_\_  
(enter name and telephone number of your attorney) to represent me.**

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_